



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 • (217) 782-3397

PAT QUINN, GOVERNOR

JOHN J. KIM, INTERIM DIRECTOR

217-524-1655

April 4, 2012

US EPA RECORDS CENTER REGION 5



424276

Mr. Thomas R. Short, Jr.
United States Environmental Protection Agency
77 West Jackson Boulevard
Mail Code S-6J
Chicago, Illinois 60604-3590

Re: 1358070001- Montgomery County
Eagle Zinc National Priorities List Site
ILD 980 606 941
Superfund/Fiscal Correspondence

Dear Mr. Short:

Attached to this letter is the signed copy of the Superfund State Contract (SSC) for the Eagle Zinc Company National Priorities List (NPL) Site Operable Unit 1 (OU 1) in Hillsboro, Illinois.

Pursuant to Section 14(B) of SSC, the total costs to the State of Illinois for the remedial actions contemplated in the SSC shall not exceed \$620,220.50. It is the intention of the Illinois Environmental Protection Agency (Illinois EPA) to apply any future earned or existing cost share credits pursuant to Section 104(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA or Superfund) to this total amount.

If you should have any questions, need any additional information or wish to discuss this matter further, please contact me at 217-524-1655 or via electronic mail at: clarence.smith@illinois.gov.

Respectfully,

Clarence L. Smith, Manager
Federal Site Remediation Section
Division of Remediation Management
Bureau of Land

April 4, 2012

Letter to Mr. Thomas R. Short, Jr.

Regarding the SSC for the Eagle Zinc NPL Site Operable Unit 1

Page 2 of 2

cc: Bureau of Land File
Scott Phillips
Bob Carson
Doyle Wilson
Carol Radwine

SUPERFUND STATE CONTRACT
Between
The United States Environmental Protection Agency
and
The Illinois Environmental Protection Agency
for the
Remedial Action of Operable Unit 1
at the
Eagle Zinc National Priority List Site
Hillsboro, Illinois

1. General Authority

This Contract is entered into pursuant to Sections 104(a)(1), (c)(2) and (c)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA, 42 United States Code (U.S.C.) Section 9601 et seq.); the National Oil and Hazardous Substances Pollution Contingency Plan, 40 Code of Federal Regulations (C.F.R.) Sections 300-399 (NCP); other applicable Federal regulations including 40 C.F.R. Part 35 Subpart O, and 40 C.F.R. Part 31, and the Intergovernmental Cooperation Act, 5 ILCS 220/1(2010).

2. Purpose of this Superfund State Contract

This Superfund State Contract (Contract) is an intergovernmental agreement between the United States Environmental Protection Agency (U.S. EPA) and the Illinois Environmental Protection Agency (Illinois EPA) in order to conduct remedial action at the Eagle Zinc National Priorities List (NPL) Site, CERCLIS ID ILD980606941, (Illinois EPA ID 1358070001 – Montgomery County). Pursuant to Section 4(1) of the Illinois Environmental Protection Act (Act, 415 ILCS 5/4(1)), the Illinois EPA is the implementing agency for CERCLA for the State of Illinois (State) for the purposes of entering into contracts relating to the Eagle Zinc NPL Site.

This Contract sets forth the responsibilities of U.S. EPA as the lead agency and Illinois EPA as the support agency for the remedial actions at the Eagle Zinc NPL Site. The Contract obtains the necessary CERCLA assurances for remedial actions at the Eagle Zinc NPL Site, Operable Unit 1 (OU 1) pursuant to Section 104(c)(3), 104(c)(9), and 104(j) of CERCLA and it documents State involvement in the remedial action cleanup process pursuant to Section 121(f) of CERCLA and 40 C.F.R. Part 300.515(g).

3. Effective Date

This Contract shall become effective upon execution by both U.S. EPA and Illinois EPA and shall remain in effect until terminated in accordance with Paragraph 23, as identified below.

4. Designation of Primary Contacts and their Responsibilities

- A. U.S. EPA has designated Nefertiti DiCosmo, as Remedial Project Manager (RPM) for this Contract. The Remedial Project Manager can be reached at 312-886-6148, via fax at 312-692-2587, or via electronic mail at: dicosmo.nefertiti@epa.gov. The mailing address is U.S. EPA Region 5, Mail Code SR-6J, 77 West Jackson Boulevard, Chicago, Illinois 60604. The designated RPM may be changed by letter to the State Project Manager without amending this Contract.
- B. The Illinois EPA has designated Doyle W. Wilson to serve as State Project Manager (SPM) and Clarence L. Smith as the alternate for this Contract. The SPM can be reached at 217-782-7592, via fax at 217-782-3258, or via electronic mail at doyle.wilson@illinois.gov. Mr. Smith can be reached at 217-524-1655, via fax at 217-782-3258, or via electronic mail at clarence.smith@illinois.gov. Whenever a written notice, report or other document required to be sent to the Illinois EPA, it will be directed to Mr. Wilson unless otherwise instructed by Illinois EPA. The mailing address is Illinois Environmental Protection Agency, Bureau of Land, 1021 North Grand Avenue, East, Post Office Box 19276, Springfield, Illinois 62794-9276. The designated SPM can be changed by letter to the Remedial Project Manager without amending this Contract.
- C. The RPM and the SPM may make project changes that do not substantially alter the scope of the remedial actions.
- D. In the event of disputes between U.S. EPA and Illinois EPA concerning the work to be performed under this Contract, the RPM and SPM will attempt to resolve such disputes promptly. If disputes cannot be resolved at this level within seven work days, the problem will be referred to the supervisors of these persons for further U.S. EPA/Illinois EPA consultation. This supervisory referral and resolution process will continue, if necessary, to the level of Director of Illinois EPA and Superfund Division Director, U.S. EPA, Region 5. If an agreement still cannot be reached, the dispute will jointly be referred to the Assistant Administrator for Solid Waste and Emergency Response of U.S. EPA for final determination.

5. Negotiation of Agency Relationship

Nothing contained in this Contract shall be construed to create, either expressly or by implication, the relationship of agency between U.S. EPA and the State of Illinois. U.S. EPA (including its employees, agents, or contractors) is not authorized to represent or act on behalf of the State of Illinois in any matter relating to subject matter of this Contract, and the State of Illinois (including its employees, agents, or contractors) is not authorized to represent or act on behalf of the U.S. EPA in any matter relating to this Contract.

6. Site Description

A description of the Eagle Zinc NPL Site including location, background events, physical characteristics, and nature and extent of contaminant releases is set forth in the September 2009 Interim ROD, which is incorporated by reference.

The remedial actions for the Eagle Zinc NPL Site OU 1 include the demolition of all buildings on the site, off-site disposal of asbestos contaminated material and putrescible waste (including treated wood railroad ties and timbers, and all utility poles), onsite consolidation of demolition debris covered by a one-foot soil and vegetative cover, the recycling of all metal generated during the demolition, the recycling of any building demolition debris as applicable, and proper disposal of RCRA hazardous waste in accordance with applicable or relevant and appropriate requirements.

7. Site Access

- A. U.S. EPA agrees to obtain access to all required residences/properties. U.S. EPA agrees to obtain access to right-of-way and easements of the City of Hillsboro, Illinois, which are necessary to complete the remedial actions to be undertaken pursuant to the Contract. Illinois EPA will assist the U.S. EPA as a support agency in obtaining access for U.S. EPA or its contractors to complete the remedial actions.
- B. Representatives of Illinois EPA and U.S. EPA shall have access to the Site to review work in progress, and shall coordinate visits in advance with the RPM and SPM.
- C. U.S. EPA shall not be responsible for any harm to any State representative or other person arising out of, or resulting from any act or omission by the State of Illinois in the course of an on-site visit. The State of Illinois shall not be responsible for any harm to any U.S. EPA representative or other person arising out of, or resulting from any act or omission by the U.S. EPA in the course of an on-site visit.

8. Third Parties

- A. This Contract benefits only Illinois EPA and U.S. EPA. It extends no benefits or rights to any third party not signatory to this Contract.
- B. By entering this Contract, U.S. EPA does not assume any liability to third parties with respect to losses due to bodily injury or property damages that exceed the limitations contained in the provisions of 28 U.S.C. Sections 1346(b) and 2671 through 2680. By entering into this Contract, the State of Illinois does not assume liability to any third party with respect to losses due to bodily injury or property damage.

9. Site-Specific Statement of Work

A site-specific Scope of Work (SOW) for OU 1, indicating the tasks to be performed for the response action under this Contract, including the estimated costs, is attached (Appendix A). Minor adjustments to this work may be made by the authority of the RPM and SPM without formal amendment. Work changes that significantly alter the SOW, thereby affecting the State's ability to meet the conditions set out in the Contract, including cost-share requirements, shall necessitate amendment to this Contract.

10. Project Start and Schedule

U.S. EPA, in consultation with Illinois EPA, shall approve the remedial design prior to the beginning of the remedial actions. A general description of the project schedule and milestones will be included in the Final Remedial Design Report. A summary of deliverables are specified in the SOW (Appendix A). The project schedule in the Remedial Design Report may be adjusted in writing by joint authority of the RPM and the SPM, without a formal amendment to this Contract, unless there is an extended delay to the schedule.

11. U.S. EPA and Illinois EPA Review

U.S. EPA will provide both hard and electronic copies of documents generated under this Contract to Illinois EPA. Illinois EPA shall timely review and transmit written comments on documents provided under the SOW to U.S. EPA. U.S. EPA shall address any Illinois EPA comments by incorporating them into the appropriate document or providing written explanation to Illinois EPA for each comment not incorporated. Specifically, all deliverable reviews shall not exceed 45 calendar days for draft documents and 28 calendar days for final documents unless agreed upon in writing by the RPM and SPM. The review time for major change order shall be 14 calendar days.

12. Records Retention

All financial and programmatic records, supporting documents, and statistical records and other records related to the Site must be maintained for a minimum of ten years following the submission of the final Financial Status Report by U.S. EPA. If any litigation, claim, negotiation, audit, cost recovery, or other action involving the records has been started before the expiration of the ten-year period, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular ten-year period, whichever is later. Microfilm, copying, or digital imaging shall be performed in accordance with all applicable State of Illinois records management and retention regulations, which meet or exceed the technical regulations and records management procedures, contained in the 35 C.F.R. Part 1230 and U.S. EPA Order 2160, respectively.

13. Statement of Intention to Follow U.S. EPA Policy and Guidance

U.S. EPA and Illinois EPA agree to adhere to all applicable or relevant and appropriate federal program requirements (policy and guidance) identified in the Administrative Record in addition to the requirements specified in CERCLA and the NCP.

14. CERCLA Assurance: Cost Share Payment

A. Cost Share

U.S. EPA and Illinois EPA agree that the Eagle Zinc Site was privately operated during the time of contaminant releases and, pursuant to Section 104(c)(3) and 104(d)(1) of CERCLA, the Illinois EPA's cost share for the remedial action at this Site is 10 percent.

B. Cost Estimate

The estimated cost of the remedial action (excluding U.S. EPA's indirect costs) is \$6,202,205. This estimate is derived from the cost estimate in the Final Remedial Design (June 2011), and includes contingencies for change orders, which may or may not be invoked, and construction management, but not remedial design costs. However, the estimated total remedial action cost will be offset by the sale of scrap metal reclaimed as part of the demolition project.

Total costs of Illinois EPA under the terms of this Contract shall not exceed \$620,220.50. This amount will be reduced by ten percent of the total value of the scrap metal reclaimed as part of the demolition project. Project changes that increase the State's funding assistance for the remedial action above the amount set forth in this paragraph shall not be effective absent written amendment of this Contract.

C. Payment Terms

- i. U.S. EPA shall pay 90 percent of the total capital costs of the remedial actions described in the SOW. Illinois, on behalf of the State of Illinois, agrees that the State shall pay 10 percent of the net costs of the remedial actions described in the SOW.
- ii. Pursuant to CERCLA Section 104(c)(5), 40 C.F.R. Section 35.6285(c), 36.6285(f), 300.515(b)(2), 300.510(b)(4), CERCLA credit may be applied to offset the states cost-share requirements in this Contract.
- iii. U.S. EPA shall send written notice (via fax, e-mail, or regular mail) to Illinois EPA that U.S. EPA has initiated on-site remedial action work in accordance with SOW and schedule herein. When the remedial

actions described in the SOW are complete, U.S. EPA will reconcile the final costs and will send a written notice to Illinois EPA as to the final cost of the remedial actions. Upon receipt of this written notice, Illinois EPA agrees to send a letter within 90 days to U.S. EPA designating the amount of CERCLA credits for use under this Contract from any final earned credits approved by U.S. EPA for such purposes. Illinois EPA shall send the letter to the following address: U.S. EPA – Region 5, ATTN: Superfund Accounting – Site – B5Y7 Post Office Box 70753 Chicago, Illinois 60673. Any amount not covered by final earned credits approved by U.S. EPA shall be paid by Illinois EPA within 120 days after receiving notice of the final cost of the remedial actions. Total Illinois EPA payments (or CERCLA credits used) shall not exceed the cost share amount identified in Paragraph 14(b) without an amendment to this Contract. Such payments shall be identified as payment for the Eagle Zinc Site (Account number B5Y7 – OU 1).

- iv. When activities in the site-specific Statement of Work (SOW) are complete, EPA will reconcile the final net costs and will send a notice to Illinois EPA as to the final cost of the remedial action, including an invoice, or request letter, for payment of the State's cost share. Illinois EPA shall pay any balance owed under this Contract to EPA at the following address within two years of the completion of the site-specific SOW, as allowed for by EPA's class deviation from 40 C.F.R. 35.6805(j)(3), issued March 9, 2009, granting states additional time to come up with their cost share, facilitating Superfund Response Actions,

U.S. Environmental Protection Agency – Region 5
Superfund Payment – Region 5
Cincinnati Finance Center
Post Office Box 979076
Saint Louis, Missouri 63197-9000

The total Illinois EPA cost shall not exceed the amount identified in Section 14.B without concurrence by Illinois EPA. Such payments shall be identified as payment for the Eagle Zinc Site (Account number B5Y7-OU 01)

- v. Other than the CERCLA credit described in Paragraph 14.C.iii, costs incurred or in kind services performed by the Illinois EPA may be used to offset the cost share requirements only if documented in a Cooperative Agreement or an amendment to this Contract.

15. CERCLA Assurance: 20-Year Waste Capacity Assurance

Illinois EPA hereby assures the availability of hazardous waste treatment disposal facilities for the next 20 years following the signature of this Contract, pursuant to CERCLA Section 104(c)(9).

16. CERCLA Assurance: Off-Site Storage, Treatment, or Disposal

U.S. EPA and Illinois EPA agree that off-site treatment, storage and disposal of hazardous substances may be required to implement the SOW and will assure that all off-site treatment, storage, or disposal will be undertaken in conformance with Sections 104(c)(3)(B) and 121(d)(3) of CERCLA.

17. CERCLA Assurance: Real Property Acquisition

U.S. EPA and Illinois EPA agree that it will not be necessary to acquire interest in real property to implement the SOW.

18. CERCLA Assurance: Operation and Maintenance

Operation and Maintenance (O&M) will occur only after completion of the RA for OU 1 and OU 2. U.S. EPA, in accordance with CERCLA, shall undertake all operation and maintenance (O&M) activity required for the remedial actions for one year term. Illinois EPA agrees to undertake all O&M activities required under the remedial actions after the one year period is completed. U.S. EPA agrees to send Illinois EPA a written notice 90 days before the initial one year O&M period is complete.

19. Acceptance of Remedial Action

The RPM will coordinate with the SPM concerning the acceptance of the remedial actions by Illinois EPA. The remedial actions shall be considered acceptable only if and after both OUs are complete.

A. Pre-Final and Final Inspections

U.S. EPA and Illinois EPA (the RPM and SPM) shall conduct a pre-final inspection of the remedial action upon completion of the construction activities in accordance with the final Remedial Design. U.S. EPA, in consultation with Illinois EPA, shall produce a "punch list" of unresolved items. After all punch list items are resolved, U.S. EPA and Illinois EPA shall conduct a final inspection to confirm that all outstanding punch list items have been completed. These inspections can occur only after the entire site is remediated, which includes OUs 1 and 2.

B. Remedial Action Report

U.S. EPA will provide Illinois EPA with an electronic and hard copy of the OU 1 draft remedial action report (RA Report) for review upon satisfactory completion of the final inspection. Illinois EPA shall review and comment on the draft RA Report in accordance with Paragraph 11 of this Contract. U.S. EPA shall produce the final RA Report in accordance with Paragraph 11 and provide Illinois EPA with an electronic and hard copy for review and approval.

C. Acceptance

Illinois EPA shall send written notice to U.S. EPA that it has approved the final RA Report and that accepted the remedial actions for OU 1. After U.S. EPA receives Illinois EPA's written notice of acceptance of the remedial actions, U.S. EPA shall send to Illinois EPA acceptance of the completed project.

20. NPL Deletion

Pursuant to 40 C.F.R. Part 300.435(e), U.S. EPA agrees to gain the concurrence of Illinois EPA before deleting the Eagle Zinc NPL Site from the NPL for both OUs 1 and 2.

21. Enforcement

This contract does not constitute a waiver of U.S. EPA's or Illinois EPA's rights to bring an action against any person or persons for liability under Section 106 or 107 of CERCLA, or any other statutory provision or common law.

22. Cost Recovery

- A. U.S. EPA and Illinois EPA agree that they will cooperate in and coordinate with efforts to recover their respective costs of response actions taken at the Eagle Zinc NPL Site, including the negotiation of settlements and filing and management of judicial actions against any potentially responsible parties (PRPs). U.S. EPA and Illinois EPA also agree that neither agency shall enter into a settlement with or initiate a judicial or administrative proceeding against a PRP for recovery of such sums, except after having given notice in writing to the other agency 30 days prior to the date of proposed settlement or commencement of the proposed judicial or administrative proceedings.
- B. Neither party to this Contract shall attempt to negotiate or collect reimbursement of any costs of the remedial actions on behalf of the other party.

- C. If either U.S. EPA or Illinois EPA recovers monies from a PRP, the portion of these funds recovered to resolve liability for remedial action costs shall reduce the total Fund-financed expenditures for the remedial actions that require cost share. This reduction in the cost share amount shall not alter the cost share percentage set forth in Paragraph 14 above.

23. Termination of Contract

- A. The parties of this Contract may enter into a termination agreement which may establish, among other things, the effective date for the termination of this Contract, the basis for settlement of termination costs, and the amount and date of any sums due either party. Reconciliation costs will include all project costs incurred as well as close-out costs.
- B. Under Subpart O, the U.S. EPA Financial Management Office performs the final reconciliation of costs and prepares the Reconciliation and Termination Agreement after it has been determined that all technical requirements under the SOW have been completed and close-out of the Contract has been requested by the U.S. EPA State Project Officer. The final reconciliation of costs shall be performed even if the State uses a CERCLA credit to pay its costs.
- C. If at any time during the period of this Contract, performance of either all or part of the work described in the SOW is voluntarily undertaken or undertaken for any other reason by persons or entities not party to this Contract, this Contract will be modified or terminated as appropriate to allow these actions and reconcile the payment of any cost share under the percentage set forth in Paragraph 14. Upon modification or termination, the parties to this agreement shall be relieved from further duties to perform those actions undertaken by persons or entities not party to this Contract.

24. Amendments

This Contract and any attachments hereto constitute the entire agreement between the parties. No amendment to this Contract shall take effect until approved by Illinois EPA and U.S. EPA in writing.

25. Reconciliation Provision

This Contract shall remain in effect until the financial settlement of project costs and final reconciliation of response costs (including change orders, claims, overpayment, reimbursement, etc.) has been completed. Pursuant to 40 C.F.R. Part 35.6805(k), U.S. EPA and State have satisfied their cost share payment of the 90/10 split supra as specified above. U.S. EPA will not use overpayment by the State to satisfy obligations at another site. In the event that the payment terms above do not cover the cost of the remedial action, U.S. EPA will bill the State cost share as reference in

Cost Share Payment, Paragraph 14.C. Final reconciliation of all remedial actions for both OUs 1 and 2, by U.S. EPA, shall follow the acceptance of the remedy by both U.S. EPA and the Illinois EPA and is not contingent on upon deletion of the Site from the NPL.

26. Conclusion of the SSC

This Contract is concluded when:

- A. Response activities in accordance with the SOW for OU 1 at the Eagle Zinc Site have been satisfactorily completed and payments have been made, as specified in Paragraph 14 above;
- B. The Financial Management Officer (FMO) has final accounting of all project costs, including change orders and contractor claims, pursuant to Reconciliation Provision, Paragraph 25 above; and
- C. All State cost share payments have been submitted to U.S. EPA (see 40 C.F.R. Part 35.6805(i)(5)).

27. Sanctions for Failure to Comply with the Terms of This SSC

After all administrative remedies have been exhausted, if the State fails to comply with the terms of this Contract, any CERCLA assurance, and/or the negotiated payment terms, U.S. EPA shall proceed under the provisions of Section 104(d)(2) of CERCLA and shall seek to enforce this Contract in an appropriate court of competent jurisdiction. If U.S. EPA breaches this Contract, the State may file suit and seek remedies in an appropriate court of competent jurisdiction.

28. Attachments and Amendments

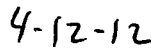
Appendix A – Scope of Work and Cost Estimate Summary
Appendix B – Project Schedule and Major Deliverables

In WITNESS WHEREFORE, the parties hereto have executed the Contract in two (2) copies, each of which shall be deemed an original.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

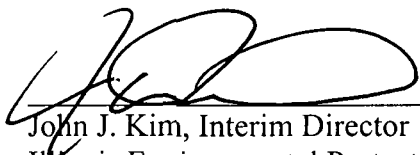


Richard C. Karl, Director
Superfund Division
U.S. EPA Region 5

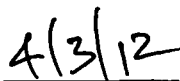


Date

STATE OF ILLINOIS



John J. Kim, Interim Director
Illinois Environmental Protection Agency



Date

Appendix A

SCOPE OF WORK FOR OU 1 REMEDIAL ACTION AT THE

Eagle Zinc National Priorities List Site
Hillsboro, Illinois

I. Objective

The purpose of the Remedial Action Contract is to implement the selected interim remedy for Operable Unit 1 (OU1) as identified in the Interim Record of Decision (ROD) and final design documents. The U.S. EPA Superfund Remedial Action Guidance, the ROD, any additional guidance provided by the U.S. EPA and Scope of Work shall be followed in implementing this Remedial Action at the Eagle Zinc NPL Site, OU 1.

II. Description of the Remedial Actions

The remedial action consists of building demolition, recycling of salvageable materials, and consolidation on-site in a temporary management cell.

Components of the selected remedy:

- Building Demolition: The demolition of all buildings on-site, including manufacturing buildings, office buildings and laboratories;
- Off-site disposal of Asbestos Containing Materials and Putrescible Wastes: Proper off-site disposal of asbestos containing materials and putrescible wastes;
- Recycling: Recycling of steel, metal, bricks and other recyclable materials. Any material eligible for recycling will be decontaminated to a level of contamination acceptable to the recycling facility;
- On-site Management Cell with Soil Cover: Consolidation of demolition debris and a one-foot soil cover will be placed on-site to temporarily manage the consolidated debris. The vegetative portion of the soil cover will use native grasses, which will require limited maintenance; and
- Management of Wastes: All non-hazardous waste will be managed onsite under the one-foot soil cover. Any hazardous waste will be placed on-site managed consistent with Resource Conservation and Recovery Act waste pile requirements and incorporated into the final remedial action.

III. Scope

The Remedial Action Contractor (RAC) will be responsible for:

- A. Award and management of the contract to implement the remedial action in accordance with the Interim Record of Decision and the Remedial Design.

B. Construction Management

The RAC shall manage the construction to ensure compliance with all contract requirements and assure oversight and monitoring is provided in coordination with U.S. EPA Remedial Project Manager (RPM).

C. Project Completion and Closeout

The RAC will conduct the final inspection and certification of completed remedial action in accordance with the RPM.

D. Technical Support

The RAC shall participate in the U.S. EPA sponsored public meetings and community relations activities, as identified by the RPM to explain activities at or concerning the site.

Community Relations support shall be consistent with current Superfund community relations policies.

IV. Cost

SSC COST ESTIMATE SUMMARY

Estimated Net RA Cost (RD):	\$6,202,205.00
Total State Cost Share ¹ :	\$620,220.50

Items included in estimate RA cost above:

Remedy costs	\$4,241,214
Construction Management	\$363,637
Management/Procurement	\$272,728
Contractor Costs	\$731,739
Contingency	\$592,887
Steel Salvage Revenue	Unknown

¹ However, the estimated total remedial action cost will be offset by the sale of scrap metal reclaimed as part of the demolition project. The Total State Cost Share amount will be reduced by ten percent of the total value of the scrap metal reclaimed as part of the demolition project.

Appendix B

PROJECT SCHEDULE and DELIVERABLES (Estimated)

<u>Milestone</u>	<u>Estimated Date</u>
Remedial Design Completion	June 2011
Remedial Action Work Assignment	June 2012
RA Work Plan	August 2012
Other RA Documents	August 2012
Pre-Demolition Inspection(s)	September 2012
Mobilization	September 2012
Pre-Final Inspection	February 2013
Final Inspection (Construction Completion)	March 2013
RA Report	March 2014
Operation and Maintenance (U.S. EPA)	March 2014
Request for First State Payment	September 2012
Request for Final State Payment	June 2014
Operation and Maintenance (State)	March 2014

SUPERFUND STATE CONTRACT
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The United States Environmental Protection Agency
and
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for the
Remedial Action of Operable Unit 1
at the
Eagle Zinc National Priority List Site
Hillsboro, Illinois

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- B. The Illinois EPA has designated Doyle W. Wilson to serve as State Project Manager (SPM) and Clarence L. Smith as the alternate for this Contract. The SPM can be reached at 217-782-7592, via fax at 217-782-3258, or via electronic mail at doyle.wilson@illinois.gov. Mr. Smith can be reached at 217-524-1655, via fax at 217-782-3258, or via electronic mail at clarence.smith@illinois.gov. Whenever a written notice, report or other document required to be sent to the Illinois EPA, it will be directed to Mr. Wilson unless otherwise instructed by Illinois EPA. The mailing address is Illinois Environmental Protection Agency, Bureau of Land, 1021 North Grand Avenue, East, Post Office Box 19276, Springfield, Illinois 62794-9276. The designated SPM can be changed by letter to the Remedial Project Manager without amending this Contract.
- C. The RPM and the SPM may make project changes that do not substantially alter the scope of the remedial actions.
- D. In the event of disputes between U.S. EPA and Illinois EPA concerning the work to be performed under this Contract, the RPM and SPM will attempt to resolve such disputes promptly. If disputes cannot be resolved at this level within seven work days, the problem will be referred to the supervisors of these persons for further U.S. EPA/Illinois EPA consultation. This supervisory referral and resolution process will continue, if necessary, to the level of Director of Illinois EPA and Superfund Division Director, U.S. EPA, Region 5. If an agreement still cannot be reached, the dispute will jointly be referred to the Assistant Administrator for Solid Waste and Emergency Response of U.S. EPA for final determination.

5. Negotiation of Agency Relationship

Nothing contained in this Contract shall be construed to create, either expressly or by implication, the relationship of agency between U.S. EPA and the State of Illinois. U.S. EPA (including its employees, agents, or contractors) is not authorized to represent or act on behalf of the State of Illinois in any matter relating to subject matter of this Contract, and the State of Illinois (including its employees, agents, or contractors) is not authorized to represent or act on behalf of the U.S. EPA in any matter relating to this Contract.

6. Site Description

A description of the Eagle Zinc NPL Site including location, background events, physical characteristics, and nature and extent of contaminant releases is set forth in the September 2009 Interim ROD, which is incorporated by reference.

The remedial actions for the Eagle Zinc NPL Site OU 1 include the demolition of all buildings on the site, off-site disposal of asbestos contaminated material and putrescible waste (including treated wood railroad ties and timbers, and all utility poles), onsite consolidation of demolition debris covered by a one-foot soil and vegetative cover, the recycling of all metal generated during the demolition, the recycling of any building demolition debris as applicable, and proper disposal of RCRA hazardous waste in accordance with applicable or relevant and appropriate requirements.

7. Site Access

- A. U.S. EPA agrees to obtain access to all required residences/properties. U.S. EPA agrees to obtain access to right-of-way and easements of the City of Hillsboro, Illinois, which are necessary to complete the remedial actions to be undertaken pursuant to the Contract. Illinois EPA will assist the U.S. EPA as a support agency in obtaining access for U.S. EPA or its contractors to complete the remedial actions.
- B. Representatives of Illinois EPA and U.S. EPA shall have access to the Site to review work in progress, and shall coordinate visits in advance with the RPM and SPM.
- C. U.S. EPA shall not be responsible for any harm to any State representative or other person arising out of, or resulting from any act or omission by the State of Illinois in the course of an on-site visit. The State of Illinois shall not be responsible for any harm to any U.S. EPA representative or other person arising out of, or resulting from any act or omission by the U.S. EPA in the course of an on-site visit.

8. Third Parties

- A. This Contract benefits only Illinois EPA and U.S. EPA. It extends no benefits or rights to any third party not signatory to this Contract.
- B. By entering this Contract, U.S. EPA does not assume any liability to third parties with respect to losses due to bodily injury or property damages that exceed the limitations contained in the provisions of 28 U.S.C. Sections 1346(b) and 2671 through 2680. By entering into this Contract, the State of Illinois does not assume liability to any third party with respect to losses due to bodily injury or property damage.

9. Site-Specific Statement of Work

A site-specific Scope of Work (SOW) for OU 1, indicating the tasks to be performed for the response action under this Contract, including the estimated costs, is attached (Appendix A). Minor adjustments to this work may be made by the authority of the RPM and SPM without formal amendment. Work changes that significantly alter the SOW, thereby affecting the State's ability to meet the conditions set out in the Contract, including cost-share requirements, shall necessitate amendment to this Contract.

10. Project Start and Schedule

U.S. EPA, in consultation with Illinois EPA, shall approve the remedial design prior to the beginning of the remedial actions. A general description of the project schedule and milestones will be included in the Final Remedial Design Report. A summary of deliverables are specified in the SOW (Appendix A). The project schedule in the Remedial Design Report may be adjusted in writing by joint authority of the RPM and the SPM, without a formal amendment to this Contract, unless there is an extended delay to the schedule.

11. U.S. EPA and Illinois EPA Review

U.S. EPA will provide both hard and electronic copies of documents generated under this Contract to Illinois EPA. Illinois EPA shall timely review and transmit written comments on documents provided under the SOW to U.S. EPA. U.S. EPA shall address any Illinois EPA comments by incorporating them into the appropriate document or providing written explanation to Illinois EPA for each comment not incorporated. Specifically, all deliverable reviews shall not exceed 45 calendar days for draft documents and 28 calendar days for final documents unless agreed upon in writing by the RPM and SPM. The review time for major change order shall be 14 calendar days.

12. Records Retention

All financial and programmatic records, supporting documents, and statistical records and other records related to the Site must be maintained for a minimum of ten years following the submission of the final Financial Status Report by U.S. EPA. If any litigation, claim, negotiation, audit, cost recovery, or other action involving the records has been started before the expiration of the ten-year period, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular ten-year period, whichever is later. Microfilm, copying, or digital imaging shall be performed in accordance with all applicable State of Illinois records management and retention regulations, which meet or exceed the technical regulations and records management procedures, contained in the 35 C.F.R. Part 1230 and U.S. EPA Order 2160, respectively.

13. Statement of Intention to Follow U.S. EPA Policy and Guidance

U.S. EPA and Illinois EPA agree to adhere to all applicable or relevant and appropriate federal program requirements (policy and guidance) identified in the Administrative Record in addition to the requirements specified in CERCLA and the NCP.

14. CERCLA Assurance: Cost Share Payment

A. Cost Share

U.S. EPA and Illinois EPA agree that the Eagle Zinc Site was privately operated during the time of contaminant releases and, pursuant to Section 104(c)(3) and 104(d)(1) of CERCLA, the Illinois EPA's cost share for the remedial action at this Site is 10 percent.

B. Cost Estimate

The estimated cost of the remedial action (excluding U.S. EPA's indirect costs) is \$6,202,205. This estimate is derived from the cost estimate in the Final Remedial Design (June 2011), and includes contingencies for change orders, which may or may not be invoked, and construction management, but not remedial design costs. However, the estimated total remedial action cost will be offset by the sale of scrap metal reclaimed as part of the demolition project.

Total costs of Illinois EPA under the terms of this Contract shall not exceed \$620,220.50. This amount will be reduced by ten percent of the total value of the scrap metal reclaimed as part of the demolition project. Project changes that increase the State's funding assistance for the remedial action above the amount set forth in this paragraph shall not be effective absent written amendment of this Contract.

C. Payment Terms

- i. U.S. EPA shall pay 90 percent of the total capital costs of the remedial actions described in the SOW. Illinois, on behalf of the State of Illinois, agrees that the State shall pay 10 percent of the net costs of the remedial actions described in the SOW.
- ii. Pursuant to CERCLA Section 104(c)(5), 40 C.F.R. Section 35.6285(c), 36.6285(f), 300.515(b)(2), 300.510(b)(4), CERCLA credit may be applied to offset the states cost-share requirements in this Contract.
- iii. U.S. EPA shall send written notice (via fax, e-mail, or regular mail) to Illinois EPA that U.S. EPA has initiated on-site remedial action work in accordance with SOW and schedule herein. When the remedial

actions described in the SOW are complete, U.S. EPA will reconcile the final costs and will send a written notice to Illinois EPA as to the final cost of the remedial actions. Upon receipt of this written notice, Illinois EPA agrees to send a letter within 90 days to U.S. EPA designating the amount of CERCLA credits for use under this Contract from any final earned credits approved by U.S. EPA for such purposes. Illinois EPA shall send the letter to the following address: U.S. EPA – Region 5, ATTN: Superfund Accounting – Site – B5Y7 Post Office Box 70753 Chicago, Illinois 60673. Any amount not covered by final earned credits approved by U.S. EPA shall be paid by Illinois EPA within 120 days after receiving notice of the final cost of the remedial actions. Total Illinois EPA payments (or CERCLA credits used) shall not exceed the cost share amount identified in Paragraph 14(b) without an amendment to this Contract. Such payments shall be identified as payment for the Eagle Zinc Site (Account number B5Y7 – OU 1).

- iv. When activities in the site-specific Statement of Work (SOW) are complete, EPA will reconcile the final net costs and will send a notice to Illinois EPA as to the final cost of the remedial action, including an invoice, or request letter, for payment of the State's cost share. Illinois EPA shall pay any balance owed under this Contract to EPA at the following address within two years of the completion of the site-specific SOW, as allowed for by EPA's class deviation from 40 C.F.R. 35.6805(j)(3), issued March 9, 2009, granting states additional time to come up with their cost share, facilitating Superfund Response Actions,

U.S. Environmental Protection Agency – Region 5
Superfund Payment – Region 5
Cincinnati Finance Center
Post Office Box 979076
Saint Louis, Missouri 63197-9000

The total Illinois EPA cost shall not exceed the amount identified in Section 14.B without concurrence by Illinois EPA. Such payments shall be identified as payment for the Eagle Zinc Site (Account number B5Y7-OU 01)

- v. Other than the CERCLA credit described in Paragraph 14.C.iii, costs incurred or in kind services performed by the Illinois EPA may be used to offset the cost share requirements only if documented in a Cooperative Agreement or an amendment to this Contract.

15. CERCLA Assurance: 20-Year Waste Capacity Assurance

Illinois EPA hereby assures the availability of hazardous waste treatment disposal facilities for the next 20 years following the signature of this Contract, pursuant to CERCLA Section 104(c)(9).

16. CERCLA Assurance: Off-Site Storage, Treatment, or Disposal

U.S. EPA and Illinois EPA agree that off-site treatment, storage and disposal of hazardous substances may be required to implement the SOW and will assure that all off-site treatment, storage, or disposal will be undertaken in conformance with Sections 104(c)(3)(B) and 121(d)(3) of CERCLA.

17. CERCLA Assurance: Real Property Acquisition

U.S. EPA and Illinois EPA agree that it will not be necessary to acquire interest in real property to implement the SOW.

18. CERCLA Assurance: Operation and Maintenance

Operation and Maintenance (O&M) will occur only after completion of the RA for OU 1 and OU 2. U.S. EPA, in accordance with CERCLA, shall undertake all operation and maintenance (O&M) activity required for the remedial actions for one year term. Illinois EPA agrees to undertake all O&M activities required under the remedial actions after the one year period is completed. U.S. EPA agrees to send Illinois EPA a written notice 90 days before the initial one year O&M period is complete.

19. Acceptance of Remedial Action

The RPM will coordinate with the SPM concerning the acceptance of the remedial actions by Illinois EPA. The remedial actions shall be considered acceptable only if and after both OUs are complete.

A. Pre-Final and Final Inspections

U.S. EPA and Illinois EPA (the RPM and SPM) shall conduct a pre-final inspection of the remedial action upon completion of the construction activities in accordance with the final Remedial Design. U.S. EPA, in consultation with Illinois EPA, shall produce a "punch list" of unresolved items. After all punch list items are resolved, U.S. EPA and Illinois EPA shall conduct a final inspection to confirm that all outstanding punch list items have been completed. These inspections can occur only after the entire site is remediated, which includes OUs 1 and 2.

B. Remedial Action Report

U.S. EPA will provide Illinois EPA with an electronic and hard copy of the OU 1 draft remedial action report (RA Report) for review upon satisfactory completion of the final inspection. Illinois EPA shall review and comment on the draft RA Report in accordance with Paragraph 11 of this Contract. U.S. EPA shall produce the final RA Report in accordance with Paragraph 11 and provide Illinois EPA with an electronic and hard copy for review and approval.

C. Acceptance

Illinois EPA shall send written notice to U.S. EPA that it has approved the final RA Report and that accepted the remedial actions for OU 1. After U.S. EPA receives Illinois EPA's written notice of acceptance of the remedial actions, U.S. EPA shall send to Illinois EPA acceptance of the completed project.

20. NPL Deletion

Pursuant to 40 C.F.R. Part 300.435(e), U.S. EPA agrees to gain the concurrence of Illinois EPA before deleting the Eagle Zinc NPL Site from the NPL for both OUs 1 and 2.

21. Enforcement

This contract does not constitute a waiver of U.S. EPA's or Illinois EPA's rights to bring an action against any person or persons for liability under Section 106 or 107 of CERCLA, or any other statutory provision or common law.

22. Cost Recovery

- A. U.S. EPA and Illinois EPA agree that they will cooperate in and coordinate with efforts to recover their respective costs of response actions taken at the Eagle Zinc NPL Site, including the negotiation of settlements and filing and management of judicial actions against any potentially responsible parties (PRPs). U.S. EPA and Illinois EPA also agree that neither agency shall enter into a settlement with or initiate a judicial or administrative proceeding against a PRP for recovery of such sums, except after having given notice in writing to the other agency 30 days prior to the date of proposed settlement or commencement of the proposed judicial or administrative proceedings.
- B. Neither party to this Contract shall attempt to negotiate or collect reimbursement of any costs of the remedial actions on behalf of the other party.

- C. If either U.S. EPA or Illinois EPA recovers monies from a PRP, the portion of these funds recovered to resolve liability for remedial action costs shall reduce the total Fund-financed expenditures for the remedial actions that require cost share. This reduction in the cost share amount shall not alter the cost share percentage set forth in Paragraph 14 above.

23. Termination of Contract

- A. The parties of this Contract may enter into a termination agreement which may establish, among other things, the effective date for the termination of this Contract, the basis for settlement of termination costs, and the amount and date of any sums due either party. Reconciliation costs will include all project costs incurred as well as close-out costs.
- B. Under Subpart O, the U.S. EPA Financial Management Office performs the final reconciliation of costs and prepares the Reconciliation and Termination Agreement after it has been determined that all technical requirements under the SOW have been completed and close-out of the Contract has been requested by the U.S. EPA State Project Officer. The final reconciliation of costs shall be performed even if the State uses a CERCLA credit to pay its costs.
- C. If at any time during the period of this Contract, performance of either all or part of the work described in the SOW is voluntarily undertaken or undertaken for any other reason by persons or entities not party to this Contract, this Contract will be modified or terminated as appropriate to allow these actions and reconcile the payment of any cost share under the percentage set forth in Paragraph 14. Upon modification or termination, the parties to this agreement shall be relieved from further duties to perform those actions undertaken by persons or entities not party to this Contract.

24. Amendments

This Contract and any attachments hereto constitute the entire agreement between the parties. No amendment to this Contract shall take effect until approved by Illinois EPA and U.S. EPA in writing.

25. Reconciliation Provision

This Contract shall remain in effect until the financial settlement of project costs and final reconciliation of response costs (including change orders, claims, overpayment, reimbursement, etc.) has been completed. Pursuant to 40 C.F.R. Part 35.6805(k), U.S. EPA and State have satisfied their cost share payment of the 90/10 split supra as specified above. U.S. EPA will not use overpayment by the State to satisfy obligations at another site. In the event that the payment terms above do not cover the cost of the remedial action, U.S. EPA will bill the State cost share as reference in

Cost Share Payment, Paragraph 14.C. Final reconciliation of all remedial actions for both OUs 1 and 2, by U.S. EPA, shall follow the acceptance of the remedy by both U.S. EPA and the Illinois EPA and is not contingent on upon deletion of the Site from the NPL.

26. Conclusion of the SSC

This Contract is concluded when:

- A. Response activities in accordance with the SOW for OU 1 at the Eagle Zinc Site have been satisfactorily completed and payments have been made, as specified in Paragraph 14 above;
- B. The Financial Management Officer (FMO) has final accounting of all project costs, including change orders and contractor claims, pursuant to Reconciliation Provision, Paragraph 25 above; and
- C. All State cost share payments have been submitted to U.S. EPA (see 40 C.F.R. Part 35.6805(i)(5)).

27. Sanctions for Failure to Comply with the Terms of This SSC

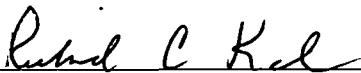
After all administrative remedies have been exhausted, if the State fails to comply with the terms of this Contract, any CERCLA assurance, and/or the negotiated payment terms, U.S. EPA shall proceed under the provisions of Section 104(d)(2) of CERCLA and shall seek to enforce this Contract in an appropriate court of competent jurisdiction. If U.S. EPA breaches this Contract, the State may file suit and seek remedies in an appropriate court of competent jurisdiction.

28. Attachments and Amendments

Appendix A – Scope of Work and Cost Estimate Summary
Appendix B – Project Schedule and Major Deliverables

In WITNESS WHEREFORE, the parties hereto have executed the Contract in two (2) copies, each of which shall be deemed an original.

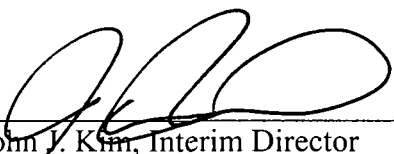
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY



Richard C. Karl, Director
Superfund Division
U.S. EPA Region 5

4-12-12
Date

STATE OF ILLINOIS



John J. Kim, Interim Director
Illinois Environmental Protection Agency

4/3/12
Date

Appendix A

SCOPE OF WORK FOR OU 1 REMEDIAL ACTION AT THE

Eagle Zinc National Priorities List Site
Hillsboro, Illinois

I. Objective

The purpose of the Remedial Action Contract is to implement the selected interim remedy for Operable Unit 1 (OU1) as identified in the Interim Record of Decision (ROD) and final design documents. The U.S. EPA Superfund Remedial Action Guidance, the ROD, any additional guidance provided by the U.S. EPA and Scope of Work shall be followed in implementing this Remedial Action at the Eagle Zinc NPL Site, OU 1.

II. Description of the Remedial Actions

The remedial action consists of building demolition, recycling of salvageable materials, and consolidation on-site in a temporary management cell.

Components of the selected remedy:

- Building Demolition: The demolition of all buildings on-site, including manufacturing buildings, office buildings and laboratories;
- Off-site disposal of Asbestos Containing Materials and Putrescible Wastes: Proper off-site disposal of asbestos containing materials and putrescible wastes;
- Recycling: Recycling of steel, metal, bricks and other recyclable materials. Any material eligible for recycling will be decontaminated to a level of contamination acceptable to the recycling facility;
- On-site Management Cell with Soil Cover: Consolidation of demolition debris and a one-foot soil cover will be placed on-site to temporarily manage the consolidated debris. The vegetative portion of the soil cover will use native grasses, which will require limited maintenance; and
- Management of Wastes: All non-hazardous waste will be managed onsite under the one-foot soil cover. Any hazardous waste will be placed on-site managed consistent with Resource Conservation and Recovery Act waste pile requirements and incorporated into the final remedial action.

III. Scope

The Remedial Action Contractor (RAC) will be responsible for:

- A. Award and management of the contract to implement the remedial action in accordance with the Interim Record of Decision and the Remedial Design.

B. Construction Management

The RAC shall manage the construction to ensure compliance with all contract requirements and assure oversight and monitoring is provided in coordination with U.S. EPA Remedial Project Manager (RPM).

C. Project Completion and Closeout

The RAC will conduct the final inspection and certification of completed remedial action in accordance with the RPM.

D. Technical Support

The RAC shall participate in the U.S. EPA sponsored public meetings and community relations activities, as identified by the RPM to explain activities at or concerning the site.

Community Relations support shall be consistent with current Superfund community relations policies.

IV. Cost

SSC COST ESTIMATE SUMMARY

Estimated Net RA Cost (RD):	\$6,202,205.00
Total State Cost Share ¹ :	\$620,220.50

Items included in estimate RA cost above:

Remedy costs	\$4,241,214
Construction Management	\$363,637
Management/Procurement	\$272,728
Contractor Costs	\$731,739
Contingency	\$592,887
Steel Salvage Revenue	Unknown

¹ However, the estimated total remedial action cost will be offset by the sale of scrap metal reclaimed as part of the demolition project. The Total State Cost Share amount will be reduced by ten percent of the total value of the scrap metal reclaimed as part of the demolition project.

Appendix B

PROJECT SCHEDULE and DELIVERABLES (Estimated)

<u>Milestone</u>	<u>Estimated Date</u>
Remedial Design Completion	June 2011
Remedial Action Work Assignment	June 2012
RA Work Plan	August 2012
Other RA Documents	August 2012
Pre-Demolition Inspection(s)	September 2012
Mobilization	September 2012
Pre-Final Inspection	February 2013
Final Inspection (Construction Completion)	March 2013
RA Report	March 2014
Operation and Maintenance (U.S. EPA)	March 2014
Request for First State Payment	September 2012
Request for Final State Payment	June 2014
Operation and Maintenance (State)	March 2014